

37 Am. Jur. 2d Fraud and Deceit § 51

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Fraud and Deceit

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III. Means of Perpetration

B. False Pretenses and Fraudulent Devices, Schemes, and Tricks

§ 51. False identification or impersonation; forgery—Concealment of, or misrepresentation as to, identity of purchaser or grantee

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Fraud](#)  27, 28

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[Concealment, misrepresentation, or mistake as regards identity of person for whom property is purchased as ground for cancellation of deed, 6 A.L.R.2d 812](#)

In negotiating for the purchase of land, a purchaser may act through an agent, keeping his or her own identity secret, and unless misrepresentations in this regard are made by the ostensible purchaser, or he or she conceals the identity of his or her principal when the agent knows that otherwise the vendor would not deal with the purchaser, there is nothing of fraud in such practice although it may be that the vendor would not have in fact made the sale if the vendor had known for whom the purchase was being made.¹ A court may refuse to decree specific performance of a contract for the sale of land, where the person with whom the vendor made the contract was in fact acting for another and the personality of the party with whom the vendor dealt was of importance to him or her, or where there are elements of trust and confidence between the parties, even though there were no misrepresentations,² although it does not follow from the fact that specific performance would not have been decreed, that equity will rescind or cancel the contract.³ However, fraud may be found to exist as a consequence of a misrepresentation of one of the parties to the contract concerning his or her identity where it is shown that the other party is peculiarly interested in having the property conveyed to a certain individual and none other; in such case, the identity of the grantee becomes a material matter and may be the foundation of an action for fraud for misrepresentations.⁴ Otherwise stated, the identity of the other party to the transaction is material if the transaction would not have been consummated had the seller known who the buyer was, and if the latter either knew, or had good reason to know, of the seller's predisposition against him or her.⁵ Thus, fraud may be predicated upon misrepresentations as to the identity of the purchaser, or as to the person for whom the ostensible purchaser acts, where the vendor would not have entered into the contract had the vendor known the true identity of the purchaser.⁶ Where a person desiring to purchase property for a certain business purpose knows that the

owner is not willing to sell the land for such purpose, and so procures a third person to purchase the land for him or her, which person conceals from the vendor the fact that he or she is acting as intermediary in the transaction, the vendor may have the contract set aside or rescinded.⁷

A representation by the vendee that the vendee is the sole owner of a mercantile business operated under a firm name, when in fact the vendee is only a partner in the business, has been held sufficient to entitle the vendor to rescind the contract.⁸

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Footnotes

- ¹ Lenman v. Jones, 222 U.S. 51, 32 S. Ct. 18, 56 L. Ed. 89 (1911); Hall v. Bollen, 148 Ky. 20, 145 S.W. 1136 (1912); Payne v. Jennings, 144 Va. 126, 131 S.E. 209, 48 A.L.R. 628 (1926).
- ² Am. Jur. 2d, Specific Performance § 68.
- ³ Miller v. Fulmer, 25 Pa. Super. 106, 1904 WL 3394 (1904).
- ⁴ Walker v. Galt, 171 F.2d 613, 6 A.L.R.2d 808 (5th Cir. 1948); Ash Grove Lime & Portland Cement Co. v. White, 361 Mo. 1111, 238 S.W.2d 368 (1951); Pennebaker v. Kimble, 126 Or. 317, 269 P. 981 (1928).
- ⁵ Barnes v. Eastern & Western Lumber Co., 205 Or. 553, 287 P.2d 929 (1955).
- ⁶ Walker v. Galt, 171 F.2d 613, 6 A.L.R.2d 808 (5th Cir. 1948); White Tower Management Corp. v. Taglino, 302 Mass. 453, 19 N.E.2d 700, 121 A.L.R. 1158 (1939); Ash Grove Lime & Portland Cement Co. v. White, 361 Mo. 1111, 238 S.W.2d 368 (1951).
As to cancellation of a deed on this ground, see Am. Jur. 2d, Cancellation of Instruments §§ 13 to 18.
- ⁷ White Tower Management Corp. v. Taglino, 302 Mass. 453, 19 N.E.2d 700, 121 A.L.R. 1158 (1939); Ash Grove Lime & Portland Cement Co. v. White, 361 Mo. 1111, 238 S.W.2d 368 (1951).
- ⁸ New York Brokerage Co. v. Wharton, 143 Iowa 61, 119 N.W. 969 (1909).

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